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15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 ORACLE AMERICA, INC.,

19 Plaintiff,

20 v.

21 GOOGLE INC.,

22 Defendant.

23 Case No. 3:10-cv-03561-WHA

24 [PROPOSED] ORDER GRANTING  
RELIEF FROM NONDISPOSITIVE  
PRETRIAL ORDER OF MAGISTRATE  
JUDGE

25 Judge: Hon. William Alsup

26 Date Comp. Filed: October 27, 2010  
Trial Date: October 31, 2011

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1           The Court has read and considered defendant Google Inc.'s Motion for Relief from  
 2 Nondispositive Pretrial Order of Magistrate Judge ("the Motion"), the Opposition thereto, and  
 3 the Reply in support of the motion, and all supporting papers submitted with those briefs.

4           Based thereon, [and on statements made by counsel at the hearing on the Motion], IT IS  
 5 HEREBY ORDERED THAT all Objections set forth in the Motion to the orders set forth in  
 6 Docs. 353, 354, 361 and in Docs. 355, 356, and 360 are SUSTAINED; that the Lindholm email  
 7 and all copies and drafts thereof are protected by the attorney-client privilege and by the attorney  
 8 work-product doctrine; and that the Lindholm email and all drafts thereof cannot be introduced  
 9 into evidence or filed or otherwise submitted in any proceeding, including, without limitation, at  
 10 depositions in this action or at the trial of this action.

11           IT IS FURTHER ORDERED that

12           (1)       Oracle must return to Google, within three business days, all versions and copies,  
 13 physical and electronic, of

- 14           •       **the Lindholm draft emails** (including, without limitation, the documents  
                   production-stamped GOOGLE-12-00039558, GOOGLE-12-00039559,  
                   GOOGLE-12-00039560, GOOGLE-12-00039561, GOOGLE-12-00039562,  
                   GOOGLE-12-00039563, GOOGLE-12-00039564, GOOGLE-12-00039565, and  
                   the document listed on Google's privilege log as item 5512) and of
- 17           •       **the Lindholm final emails** (including, without limitation, the documents listed on  
                   Google's privilege log as items 2251 and 5513)

18           that are in Oracle's control or possession, broadly construed.

19           (2)       All proceedings, pleadings, transcripts, declarations, and orders referencing the  
 20 Lindholm draft emails and the Lindholm final emails or the substance thereof are hereby  
 21 ORDERED sealed, including all those related to the discovery dispute giving rise to this Order  
 22 and specifically including the following:

- 23           •       The Magistrate's "Order re the Parties' Joint Discovery Letter of August 5, 2011  
                   [Docket No 277]" (Doc. 361) is hereby ORDERED sealed in its entirety.
- 25           •       The transcript of the August 25, 2011 hearing before Magistrate Ryu is hereby  
                   ORDERED sealed in its entirety.
- 27           •       Exhibits O and P to the Declaration of Fred Norton (Doc. 305) are hereby  
                   ORDERED sealed and redacted.

- The following lines of the Court's July 22, 2011 *Daubert* order (Doc. 230) are hereby ORDERED redacted: Page 3:24-27. Good cause having been shown, the Court's Orders set forth in Docs. 255 and 271 are hereby reconsidered and VACATED.
  - The following lines of the July 21, 2011 *Daubert* hearing transcript are hereby ORDERED sealed and redacted: Pages 23:17-24:7, 39:24-42:16, and 45:11-16. The same lines of Exhibit I to the Declaration of Fred Norton (Doc. 305) are hereby ORDERED sealed and redacted.
  - The following lines of the transcript of the July 21, 2011 discovery hearing before Magistrate Ryu are hereby ORDERED sealed and redacted: Pages 14:17-15:5, 31:17-18, 32:25-33:13, 34:8-13, 34:19-35:8. The Magistrate's Order set forth in Doc. 355 is hereby VACATED.
  - The following lines of the Declaration of Fred Norton (Doc. 305) are hereby ORDERED sealed and redacted: Pages 6:7-18, 7:20-23, 8:6-16, 9:23-27; 10:3-6, 10:8-10, 10:12-20; 11:20-22.
  - The following lines of Exhibit H to the Declaration of Fred Norton (Doc. 305) are hereby ORDERED sealed and redacted: Pages 11:16-21, 33:6-9, 34:8-16, 34:19-35:8.
  - The following portions of the Second Declaration of Fred Norton (Doc. 336) are hereby ORDERED sealed and redacted: Pages 3:14-16 and 3:23-27.
  - Exhibits 1, 2, and 3 to the Second Declaration of Fred Norton (Doc. 336) are hereby ordered SEALED. The Magistrate's Orders set forth in Docs. 356 and 360 are hereby VACATED to the extent that they are inconsistent with this Order.

IT IS SO ORDERED,

**HONORABLE WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE**